



**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 52**

**[EPA-R05-OAR-2021-0256; FRL-8692-02-R5]**

**Air Plan Approval; Wisconsin; Attainment Plan for the  
Rhineland SO<sub>2</sub> Nonattainment Area**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is approving the State Implementation Plan (SIP) revision submitted by Wisconsin on March 29, 2021, which amends a SIP submission previously submitted to EPA on January 22, 2016, and supplemented on July 18, 2016 and November 29, 2016, for attaining the 1-hour sulfur dioxide (SO<sub>2</sub>) primary national ambient air quality standard (NAAQS) for the Rhineland SO<sub>2</sub> nonattainment area. This plan (herein referred to as Wisconsin's Rhineland SO<sub>2</sub> plan or plan) includes Wisconsin's attainment demonstration and other elements required under the Clean Air Act (CAA). In addition to an attainment demonstration, the plan addresses the requirement for meeting reasonable further progress (RFP) toward attainment of the NAAQS, reasonably available control measures and reasonably available control technology (RACT/RACM), and contingency measures. This action supplements a prior action which found that Wisconsin had satisfied emission inventory and new source review (NSR) requirements for this area, but had not met

requirements for the elements approved here. In this action, EPA concludes that Wisconsin has appropriately demonstrated that the plan provisions provide for attainment of the 2010 1-hour primary SO<sub>2</sub> NAAQS in the Rhinelander SO<sub>2</sub> nonattainment area and that the plan meets the other applicable requirements under the CAA. EPA proposed to approve this action on July 22, 2021, and received no adverse comments.

**DATES:** This final rule is effective on December 31, 2021.

**ADDRESSES:** EPA has established a docket for this action under Docket ID No. EPA-R05-OAR-2021-0256. All documents in the docket are listed on the [www.regulations.gov](http://www.regulations.gov) website. Although listed in the index, some information is not publicly available, *i.e.*, Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either through [www.regulations.gov](http://www.regulations.gov) or at the Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604. This facility is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding Federal holidays and facility closures due to COVID-19. We recommend that you telephone Abigail Teener, Environmental Engineer, at (312) 353-7314 before visiting the Region 5 office.

**FOR FURTHER INFORMATION CONTACT:** Abigail Teener, Environmental Engineer, Attainment Planning and Maintenance Section, Air

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Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604,  
(312) 353-7314, [teener.abigail@epa.gov](mailto:teener.abigail@epa.gov).

**SUPPLEMENTARY INFORMATION:** Throughout this document whenever  
“we,” “us,” or “our” is used, we mean EPA.

## **I. Background Information.**

Following the promulgation in 2010 of a 1-hour primary SO<sub>2</sub> NAAQS, on August 5, 2013, EPA designated the Rhinelander area within the State of Wisconsin as nonattainment for this NAAQS, in conjunction with designating multiple areas in other states as nonattainment (78 FR 47191). Wisconsin submitted a nonattainment plan for the Rhinelander area on January 22, 2016, and supplemented it on July 18, 2016, and November 29, 2016. On March 23, 2021, EPA partially approved and partially disapproved Wisconsin’s Rhinelander SO<sub>2</sub> plan as submitted and supplemented in 2016 (86 FR 15418). EPA approved the base-year emissions inventory and affirmed that the new source review requirements for the area had previously been met (79 FR 60064, October 6, 2014). EPA also approved the SO<sub>2</sub> emission limit for Ahlstrom-Munksjö’s Rhinelander facility (Ahlstrom-Munksjö) (formerly Expera Specialty Solutions LLC (Expera)) as SIP-strengthening. At that time, EPA disapproved the attainment demonstration for failing to comply with EPA’s stack height regulations. Additionally, EPA disapproved the plan for failing to meet the requirements for RFP toward attainment of the NAAQS, RACM/RACT, emission limitations and control measures, as necessary to

attain the NAAQS, and contingency measures. On March 29, 2021, Wisconsin submitted a permit containing a more stringent emission limit for Ahlstrom-Munksjö (2.38 pounds per million British Thermal Unit (lbs/MMBTU) on a 24-hour average basis) than the previous limit (3.0 lbs/MMBTU on a 24-hour average basis), supplemental information in order to remedy the plan's deficiencies specified in EPA's March 23, 2021 rulemaking, and a request that EPA approve its revised plan for the Rhinelander area.

EPA published a notice of proposed rulemaking addressing Wisconsin's revised plan for the Rhinelander SO<sub>2</sub> nonattainment area on July 22, 2021 (86 FR 38643). EPA proposed to approve the sections of the title I construction permit (Air Pollution Control Construction Permit Revision 15-DMM-128-R1) that contain the revised SO<sub>2</sub> limit for Ahlstrom-Munksjö and the associated requirements. Additionally, EPA proposed to replace the previously approved consent and administrative orders (AM-94-38 and AM-15-01) governing the Ahlstrom-Munksjö emission limits with these elements of Permit 15-DMM-128-R1. EPA proposed to conclude that Wisconsin has demonstrated that these requirements provide for the Rhinelander area to attain the SO<sub>2</sub> NAAQS. Finally, EPA proposed to conclude that Wisconsin has satisfied the other applicable requirements for nonattainment areas, including requirements for RACM/RACT, RFP, and contingency measures. The proposal supplemented a previous action in which

EPA concluded that Wisconsin had met the requirement for a suitable emissions inventory.

## **II. Public Comments.**

The public comment period for this proposed rule ended on August 23, 2021. During the comment period, EPA received one supportive comment on the proposal. The comment is included in the docket for this action.

## **III. Final Action.**

EPA is approving Wisconsin's SIP submission, which the State submitted to EPA on March 29, 2021, to supplement the prior SIP it had submitted on January 22, 2016, and supplemented on July 18, 2016, and November 29, 2016, for attaining the 2010 1-hour SO<sub>2</sub> NAAQS for the Rhinelander area and for meeting other nonattainment area planning requirements. This SO<sub>2</sub> attainment plan includes Wisconsin's attainment demonstration for the Rhinelander area. The plan also addresses requirements for RFP, RACT/RACM, and contingency measures. EPA has previously concluded that Wisconsin has addressed the requirements for emissions inventories for the Rhinelander area and nonattainment area NSR. EPA has determined that Wisconsin's Rhinelander SO<sub>2</sub> plan meets applicable requirements of section 172 of the CAA.

Wisconsin's Rhinelander SO<sub>2</sub> plan is based on the emissions limits specified in Air Pollution Control Construction Permit Revision 15-DMM-128-R1. Wisconsin seeks EPA to approve several elements of the permit, including the permit cover sheet, emissions limitations for Ahlstrom-Munksjö (Conditions

A.3.a.(1)-(3)), the compliance demonstration (Conditions A.3.b.(1)-(3)), reference test methods, recordkeeping and monitoring requirements (Conditions A.3.c.(1)-(5) and A.3.c.(7)-(9)), and the effective date (Condition YY.1.a.(1)). Wisconsin did not seek approval of limits and test methods associated with oil sulfur content. Wisconsin stated that limits on the portion of emissions from oil are unnecessary to comply with the 24-hour SO<sub>2</sub> emission limit and the boiler heat input limit, and attainment is ensured by limits on total emissions from boiler B26. EPA concurs with Wisconsin's rationale, and therefore EPA is approving these elements of the permit.

Additionally, EPA is replacing the previously approved consent and administrative orders (AM-94-38 and AM-15-01) governing the Ahlstrom-Munksjö emission limits<sup>1</sup> with the elements of Wisconsin's Air Pollution Control Construction Permit Revision 15-DMM-128-R1 specified above. This replacement will not be effective until December 31, 2021, which is the revised permit compliance date for Ahlstrom-Munksjö. Section 110(1) of the CAA states that EPA "shall not approve a revision of a plan if the revision would interfere with any applicable requirement. ..." Since Permit 15-DMM-128-R1 contains a more stringent SO<sub>2</sub> limit for Ahlstrom-Munksjö (2.38 lbs/MMBTU on a 24-hour average basis) than the previous orders (3.0 lbs/MMBTU on a 24-hour average basis), and since Wisconsin has demonstrated that the

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<sup>1</sup> Orders AM-94-38 and AM-15-01 were issued to the facility's prior owner, Expera, but the orders continued to limit the facility's emissions after it was acquired by Ahlstrom-Munksjö.

limit in Permit 15-DMM-128-R1 provides for attainment without need for the limits in the prior orders, EPA concludes that Section 110(l) does not prohibit EPA from replacing the prior orders with the newer permit, and EPA is acting in accordance with this Wisconsin request.

This approval terminates the sanctions clock started under CAA section 179 resulting from EPA's partial disapproval of the prior SIP, as well as EPA's duty to promulgate a FIP for the area under CAA section 110(c) that resulted from the previous partial disapproval.

#### **IV. Incorporation by Reference.**

In this rule, EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, EPA is finalizing the incorporation by reference of the Wisconsin Regulations described in the amendments to 40 CFR part 52 set forth below. EPA has made, and will continue to make, these documents generally available through [www.regulations.gov](http://www.regulations.gov), and at the EPA Region 5 Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information).

Also in this document, as described in the amendments to 40 CFR part 52 set forth below, EPA is removing provisions of the EPA-Approved Wisconsin Regulations and Statutes from the Wisconsin State Implementation Plan, which is incorporated by reference in accordance with the requirements of 1 CFR part 51.

## **V. Statutory and Executive Order Reviews.**

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the CAA and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- Does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);



- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress

and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the *Federal Register*. A major rule cannot take effect until 60 days after it is published in the *Federal Register*. This action is not a "major rule" as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by **[INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

**List of Subjects in 40 CFR Part 52**

Environmental protection, Air pollution control,  
Incorporation by reference, Intergovernmental relations,  
Reporting and recordkeeping requirements, Sulfur oxides.

Dated: October 8, 2021.

Cheryl Newton,  
*Acting Regional Administrator, Region 5.*

For the reasons stated in the preamble, EPA amends 40 CFR part 52 as follows:

**PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS**

1. The authority citation for part 52 continues to read as follows:

**Authority:** 42 U.S.C. 7401 *et seq.*

2. Section 52.2570 is amended by removing and reserving paragraphs (c)(79)(i)(A) and (c)(142) and adding paragraph (c)(144) to read as follows:

**§ 52.2570 Identification of plan.**

\* \* \* \* \*

(c) \* \* \*

(144) On March 29, 2021, the Wisconsin Department of Natural Resources submitted a request to revise the Wisconsin State Implementation Plan for attaining the 2010 primary, health-based 1-hour SO<sub>2</sub> national ambient air quality standard for the Rhinelander SO<sub>2</sub> nonattainment area. This submittal supplements the 2016 plan for the Rhinelander area and includes an attainment demonstration and a title I construction permit for Ahlstrom-Munksjö's Rhinelander facility. The revised plan also addresses the requirement for meeting reasonable further progress toward attainment of the national ambient air quality standard, reasonably available control measures and reasonably available control technology, and contingency measures.

(i) *Incorporation by reference.* Elements of Air Pollution Control Construction Permit Revision 15-DMM-128-R1, issued by

the Wisconsin Department of Natural Resources on March 25, 2021 to Ahlstrom-Munksjö Rhinelander LLC, including the permit cover sheet, SO<sub>2</sub> emissions limitations for Ahlstrom-Munksjö (Conditions A.3.a.(1)-(3)), a compliance demonstration (Conditions A.3.b.(1)-(3)), reference test methods, recordkeeping and monitoring requirements (Conditions A.3.c.(1)-(5) and A.3.c.(7)-(9)), and the effective date (Condition YYY.1.a.(1)).

(ii) [Reserved]

**§ 52.2572 [Amended]**

3. Section 52.2572 is amended by removing and reserving paragraph (c).

4. Section 52.2575 is amended by adding paragraph (a)(2) to read as follows:

**§ 52.2575 Control strategy: Sulfur dioxide.**

(a) \* \* \*

(2) Attainment demonstration - submitted on January 22, 2016, supplemented on July 18, 2016, and November 29, 2016, and revised on March 29, 2021 for the Rhinelander SO<sub>2</sub> nonattainment area.

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